

UNITED STATES OF AMERICA
UNITED STATES COAST GUARD vs.
LICENSE No. 533587 and MERCHANT MARINER'S DOCUMENT No. 093293
Issued to: Jack P. LYONS

DECISION OF THE VICE COMMANDANT ON APPEAL
UNITED STATES COAST GUARD

2440

Jack P. LYONS

This appeal has been taken in accordance with 46 CFR 5.707.

By order dated 3 October 1986, an Administrative Law Judge of the United States Coast Guard at St. Louis, Missouri, suspended Appellant's license and merchant mariner's document for one year outright, plus an additional three months on eighteen months' probation upon finding proved the charge of misconduct. The specification found proved alleged that Appellant, while serving as Pilot on board the M/V FEDERAL CALUMET, on or about 25 November 1985, wrongfully directed the movement of the vessel while under the influence of an intoxicant.

On 13 October 1986, Appellant filed a notice of appeal and requested a temporary license pending approval. The Administrative Law Judge denied the request by order dated 22 October 1986.

BASES OF APPEAL

This appeal has been taken from the denial of a temporary license. Appellant contends that the Administrative Law Judge's suspension order is inappropriately harsh, that he has a 50-year unblemished record, and that the event giving rise to the misconduct charge did not involve any marine incident or accident.

APPEARANCE: Karl L. Cambronne, Esq., Chestnut & Brooks, Suite 900
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OPINION

A request for a temporary document is governed by the provisions of 46 CFR 5.707(c), which provides, in pertinent part:

(c) A determination as to the request will take into consideration whether the service of the individual is compatible with the requirements for safety at sea and consistent with applicable laws.

In denying the issuance of a temporary license, the

Administrative Law Judge stated that she was influenced by "evidence submitted at the hearing showing that Respondent/Appellant has been charged on three occasions for driving a motor vehicle while under the influence of intoxicants..." Appellant argues that the harsh sanction was imposed because of these "unrelated non-maritime traffic offenses that occurred in 1980 and 1982." I am not persuaded by this argument.

The Administrative Law Judge, in considering Appellant's request for a temporary license, examined the record in light of the required considerations and concluded that "the continued service of Respondent/Appellant is not compatible with safety at sea." There is nothing in the record before me which would cause me to disturb that determination. Without regard to any prior incidents, the fact that a federally licensed pilot was found to have been operating a merchant vessel while under the influence of an intoxicant is sufficient to uphold the denial of a temporary license.

As the Administrative Law Judge stated, Appellant's position as a pilot "entails enormous responsibilities for the safety of the crew, cargo, and vessel." (Decision and Order at 14.) Numerous decisions are in second. See e.g. Appeal Decisions 2426 (Futcher) and 2257 (MALANAPHY). The charge found proved demonstrates a gross violation of that standard.

CONCLUSION

Appellant has not established sufficient cause to disturb the order of the Administrative Law Judge denying him a temporary license.

ORDER

The order of the Administrative Law Judge denying Appellant a temporary document dated at St. Louis, Missouri, on 22 October 1986 is AFFIRMED.

J. C. IRWIN
Vice Admiral U. S. Coast Guard
VICE COMMANDANT

Signed at Washington, D.C. this 10th day of December 1986.